

REMARKS

In response to the Office Action dated August 28, 2009, Applicants respectfully submit the following remarks. A supplemental declaration is provided which further clarifies the error which is the basis for the instant reissue application. It is submitted that the supplemental declaration cures the defect in the previously filed declaration. It is noted that the language set forth in the Supplemental Declaration was discussed with SPE Jose Dees, who agreed that the language set forth in the Supplemental Declaration appeared to sufficiently identify the error which is the basis for the instant reissue application. Indeed, Applicant believes the error is clearly set forth with specificity in paragraph three of the declaration. While Applicant understands that a different SPE will likely review the Supplemental Declaration, Applicant is hopeful that the SPE will reach the same conclusion as SPE Dees. It is noted that the reference to USP No. 6,081,029 is set forth in the declaration based on a recommendation of a previous SPE involved with this reissue application, who indicated that all patents in the family should be addressed in the declaration.

It is further noted that claims 1-8 and 16-25 are pending in this application.

With regard to the obviousness-type double patenting rejection of claims 16 and 17 in view of claims 26 and 27 of Application Ser. No. 12/179,884 (the '884 application), Applicant will file a terminal disclaimer in the '884 application so as to overcome this rejection.

Having fully and completely responded to all open issues in the pending Office Action, Applicants submit that all claims are now in condition of allowance. Therefore, a notice of allowance is respectfully requested.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper,

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including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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